

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION

| | | |
|-----------------------------|---|------------------------|
| In re: |) | |
| |) | Chapter 11 |
| NATIONAL STEEL CORPORATION, |) | |
| et al., |) | Case No.02-08715 |
| |) | (Jointly Administered) |
| |) | |
| Debtors. |) | Judge John H. Squires |
| |) | |

**PROOF OF CLAIM OF THE UNITED STATES ON BEHALF OF
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AGAINST THE HANNA FURNACE CORPORATION**

1. The United States files this Proof of Claim at the request of the U.S. Environmental Protection Agency ("EPA"). The Attorney General is authorized to make this Proof of Claim on behalf of the United States. This Proof of Claim asserts claims against The Hanna Furnace Corporation (referred to herein as "Hanna Furnace") for the recovery of environmental response costs incurred or obligated or that will be incurred or obligated by EPA under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601-9675 in connection with the Abby Street/Hickory Woods Subdivision Site in Buffalo, New York (referred to herein as "Abby Street Site").

2. Hanna Furnace is liable to reimburse the United States for the oversight costs (plus interest) related to actions taken or to be taken by the United States in response to releases and threatened releases of hazardous substances at the Abby Street Site. Hanna Furnace is liable to the United States pursuant to 42 U.S.C. § 9607(a), because it owned or operated a portion of

the Site. There have been releases or threats of releases of hazardous substances at the Abby Street Site.

3. EPA has incurred and will incur response costs at Abby Street Site not inconsistent with the National Contingency Plan promulgated pursuant to 42 U.S.C. § 9605, and set forth at 40 C.F.R. ¶ 300, as amended. In addition to Hanna Furnace, other potentially responsible parties may be jointly and severally liable to the United States under CERCLA with respect to the Abby Street Site.

4. On or about May 31, 2000, EPA entered into an Administrative Order on Consent with respect to the Abby Street Site. Hanna Furnace signed this order with two other parties and agreed to perform a removal action at the Abby Street Site and to pay EPA's past and future oversight costs. Hanna Furnace is obligated to perform work under this Administrative Order on Consent, and it is the United States' position that this is not a claim for which a proof of claim must be filed. See *infra* paragraphs 8-10.

5. The United States has incurred unreimbursed oversight costs to date of approximately \$5,564.26 from January 1, 2000 through September 30, 2002 with respect to the Abby Street Site. Hanna Furnace is therefore liable to the United States for at least \$5,564.26 plus interest.

6. Additional response activities are anticipated and additional EPA oversight costs will likely be incurred for which Hanna Furnace is liable. The United States presently estimates that the additional EPA oversight costs is approximately \$110,000. Hanna Furnace is therefore liable to the United States for at least these future response costs as well.

7. The United States hereby asserts a claim against Hanna Furnace for response costs

at the Abby Street Site identified in paragraphs 5 and 6 above.

INJUNCTIVE OBLIGATIONS UNDER ENVIRONMENTAL STATUTES

8. National Steel has injunctive obligations to comply with environmental requirements, including but not limited to obligations to perform environmental assessment and remediation work under: (1) an Administrative Order on Consent for Removal Action under CERCLA § 106(a) related to National Steel's wholly-owned subsidiary, Hanna Furnace's obligations at the Abby Street/Hickory Woods Subdivision Superfund Site in Buffalo, New York, In the Matter of the Abby/Street Hickory Woods Subdivision Site, The Hanna Furnace Corporation, LTV Steel Company, Inc., and Buffalo Urban Renewal Agency, Respondents, U.S. EPA Docket No. CERCLA - 02-2000-2020 (May 31, 2000).

9. It is the United States' position that it is not required to file a proof of claim with respect to Debtor's injunctive obligations to comply with work requirements under Consent Decrees and Orders and Administrative Orders on Consent, and to comply with other environmental requirements imposed by law. Hanna Furnace and any reorganized debtor(s) must comply with the mandatory injunctive requirements of those Consent Decrees and Court Orders and Administrative Orders on Consent and must comply with other environmental requirements imposed by law.

10. Court-ordered and regulatory obligations are mandatory injunctive obligations with which Hanna Furnace must comply, and for which proofs of claim need not be filed under the Bankruptcy Code. Nevertheless, this claim is filed in a protective fashion only to protect the United States' rights with respect to such obligations of Hanna Furnace. EPA currently estimates

that the removal action required at the Abby Street Site under the Administrative Order on Consent is approximately \$670,000. The United States reserves the right to take future actions to enforce any such obligations of Hanna Furnace. Nothing in this Proof of Claim constitutes a waiver of any rights of the United States or an election of remedies.

ADDITIONAL TERMS

11. This claim reflects the known liability of Hanna Furnace debtor to the United States on behalf of EPA. The United States reserves the right to amend this claim to assert subsequently discovered liabilities. This proof of claim is without prejudice to any right under 11 U.S.C. § 553 to set off, against this claim, debts owed (if any) to the debtor by this or any other federal agency.

12. The United States has not perfected any security interest on its claim against the debtor.

13. This claim is filed as a general unsecured claim except to the extent of any secured/trust interest in insurance proceeds received by Hanna Furnace on account of environmental claims of the United States, and to the extent the United States is entitled to administrative expense priority for post-petition penalties. The United States will file any application for administrative expense priority at the appropriate time. See also paragraphs 8-10 *supra*.

14. Except as expressly stated in this Proof of Claim, no judgments against Hanna Furnace have been rendered on this Proof of Claim.

15. Except as expressly stated in this Proof of Claim, Hanna Furnace has not made any payments to the United States on these claims.

16. This Proof of Claim is also filed to the extent necessary to protect the United States' rights relating to any insurance proceeds received by Hanna Furnace relating to the site discussed herein.

Respectfully submitted,

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